THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.E.N.PATRUDU

W.P.NOS.13495 AND 14892 OF 2005

BETWEEN:

The Union of India, rep. by Secretary to

Government of India, Department of Atomic Energy,

CSM Marg, Mumbai and another … Petitioners

AND

R.B.Jain and another … Respondents

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COMMON ORDER: (Per Sri Justice M.E.N.Patrudu)

1:01. Both the writ petitions arise out of common order dated 16.12.2004 in O.A.Nos.676 & 826 of 2003 on the file of the Central Administrative Tribunal, Hyderabad Bench. Hence they are being disposed of by common order.

2:01. The first petitioner is the Union of India represented by its Secretary, Department of Atomic Energy, Mumbai and the 2nd petitioner is the Director, Atomic Minerals Directorate for Exploration and Research, Hyderabad.

3:01. The respondents are their Scientific Officers.

4:00. The facts are not in dispute.

5:00. In nutshell the facts are:

The Regional Director, Atomic Minerals Division (for short 'AMD) is designated as Head of the Office and he is the Drawing and Disbursing Officer for the personal claims of the employees working in the Northwestern region. Whenever, the Regional Director was away from the Head Quarters either on account of leave or tour, the respondents are authorized to sign cheques or other relevant records of cash and accordingly the respondents are exercising this additional duty apart from their regular duties as Scientific Officers. It

is also alleged that the respondents did not exercise the required caution as per the Central Government Account (Receipts and Payments) Rules, 1983 (hereinafter referred to as 'the Rules') and sign the cheques and other Accounts registers during the period from 3.2.1993 to 23.9.1993 in the absence of the regular Regional Director without checking the relevant registers and without verifying the cash and thereby there were certain financial irregularities. On verification it came to light that some amount has been paid to the employees through cheques irregularly and fact-finding Committee was constituted which probed the matter and after scrutinizing the relevant records pertaining to the said period found that there is shortfall of cash amounting to Rs.1.20 lakh. The fact-finding Committee found that the respondents and five other officials including the then Regional Director, Sub-Pay Officer, Assistant Accountant and Senior Clerk are negligent and accordingly disciplinary action was initiated. Some of the delinquents admitted the charges and thereby recovery of an amount of Rs.20,000/- in lump sum was ordered to be recovered from the gratuity of the said employees. In the enquiry they are found guilty and thereby the disciplinary authority imposed penalty of reduction of pay or two stages in the time scale of pay for period of two years on the respondents with immediate effect, with a further direction that during the period of reduction he will not earn any increments of pay and on expiry of the penalty period the reduction will have the effect of postponing his future increments of pay. In addition to them it was also ordered for recovery of Rs.20,000/- in suitable instalments from the respondents on account of loss caused to the Government exchequer. The same was challenged by the respondents before the Tribunal and the Tribunal confirmed the orders of the disciplinary authority. An elaborate order running into 42 pages was pronounced by the Tribunal. The punishment imposed on the respondents is quashed by the Tribunal with a direction for reconsideration keeping in view of the findings of the UPSC. Aggrieved by the same, the petitioner Union of India and its Directorate are before us.

6:00. Heard the arguments of the learned counsel on both sides.

7:00. We have minutely perused the impugned order.

8:00. Admitted fact is that the two respondents are Scientific Officers and they are nothing to do with the administration or management of the affairs of the Directorate or any office and it is not their regular duty with regard to the maintenance of accounts or dealing with cash transactions.

8:01. Admittedly, the Regional Director, Deputy Director and Sub-Pay Officer, Accountant and Clerical establishment are supposed to administer and manage the functions of the organization and they are responsible for proper upkeep of its registers. The administration and management is mainly on the Regional Directors and his subordinates and it is for them to scrutinize the cheques and monitor cash transactions and maintenance of accounts and in fact it is stated before us that the files are finally placed before the respondents after usual preparation of registers, making entries and preparation of cheques at various lower levels an they are requested to discharge duties of signing in the absence of the regular Regional Director which is admittedly no part of the duty of the respondents and they just discharge the same by way of courtesy. It is only oral delegation of these powers and it is stated that they were neither officially authorized as part of their duties nor they expected to deal with such maintenance of accounts as per any authority. Their job is entirely different. The respondents being scientists were not trained for performance of these functions nor recruited in the service for the same. The verification of record discloses that UPSC has found that the respondents had no ulterior motive in their conduct.

9:00. Considering the above, we are of the firm opinion that the punishment imposed on the respondents is too severe. The nature of the charge is only negligence and carelessness in performing their duties and in fact they were not officially authorized to do except some informal arrangement in the absence of the regular Regional Director and in fact the Regional Director is mainly responsible for

management of accounts and in his absence the Deputy Director should take necessary care and all the responsibility must be on the shoulders of the Deputy Director and as senior officers the respondents are requested to discharge the duties. It is also contended before us that the Regional Director had accepted the total responsibility in the matter and a lighter punishment of only 10% cut in the pension is imposed on the Regional Director on the ground that he is retired, whereas severe punishment is imposed on the respondents for non-performance of duty for which they were neither officially required nor authorized officially nor were neither officially required to do nor authorized officially nor were recruited for the said purpose.

10:00.The Tribunal had remitted the matter back to the disciplinary authority for reconsideration of the matter on the representations filed by the respondents. In our considered opinion, it is not really necessary, having come to the conclusion that the two respondents were neither officially required nor authorized to perform the duties, it is only a stopgap arrangement the respondents should have been given the benefit. However, we are of the opinion that as the government money was involved and there was financial loss to the government exchequer, the petitioners can recover the amount through reasonable instalments from the respondents so that the government amount is safeguarded. Apart from that, the major punishment of reduction of pay by two stages in the time scale of pay for a period of two years and further direction that during the period of reduction he will not earn any increment of pay and on expiry of the penalty period the reduction will have the effect of postponing his future increments of pay is a disproportionate punishment having regard to the facts and circumstances mentioned above and therefore set aside.

Accordingly, the writ petitions are disposed modifying the order of the Tribunal. There shall be no order as to costs.

(J.CHELAMESWAR, J.)

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(M.E.N.PATRUDU, J.)

2.2.2006

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